

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

RICKEY DONNELL CUMMINGS,	§	
Petitioner,	§	
	§	
v.	§	CIV. ACT. NO. W-18-CV-125-ADA
	§	DEATH PENALTY CASE
BOBBY LUMPKIN,	§	
Director, Texas Department of	§	
Criminal Justice, Correctional	§	
Institutions Division,	§	
Respondent.	§	

**RESPONDENT LUMPKIN'S UNOPPOSED MOTION FOR AN
EXTENSION OF TIME WITH BRIEF IN SUPPORT**

This is a federal habeas proceeding brought by Rickey Donnell Cummings. Cummings recently filed an amended petition following one sixty-day extension. ECF Nos. 69, 73. The Director's amended answer is now due on September 27, 2021. ECF No. 70. However, additional time to respond is needed and would be greatly appreciated.

Cummings's amended petition is 155 pages long. ECF No. 73. There are lengthy appendices. ECF Nos. 73-1, 73-2, 73-3, & 73-4. The state court records are voluminous. The undersigned will thus require additional time to review the relevant documents and formulate a response while simultaneously managing the other matters and deadlines on his docket. These other deadlines include a lengthy answer recently filed in the capital case of *Hamilton v. Lumpkin*, No. 4:15-cv-01996 (S.D. Tex.). Furthermore, the undersigned is

assigned to Stephen Dale Barbee's case. Mr. Barbee is presently scheduled for execution on October 12, 2021. This execution is already being litigated and more litigation is anticipated. This is the first extension requested for the Director's amended answer, and Cummings's counsel is unopposed.

CONCLUSION

For the foregoing reasons, the Director respectfully requests that the Court extend the time for the Director to file his amended answer for sixty days, up to and including November 26, 2021.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

JOSH RENO
Deputy Attorney General
for Criminal Justice

EDWARD L. MARSHALL
Chief, Criminal Appeals Division

*Attorney-in-charge

s/ Stephen M. Hoffman
*STEPHEN M. HOFFMAN
Assistant Attorney General
Texas Bar No. 24048978
P. O. Box 12548, Capitol Station
Austin, Texas 78711
Tel: (512) 936-1400
Fax: (512) 320-8132
Email: Stephen.Hoffman@oag.texas.gov

ATTORNEYS FOR RESPONDENT

CERTIFICATE OF CONFERENCE

I do hereby certify that on September 17th, 2021, Lee Kovarsky, counsel for Petitioner, stated via email that he was unopposed to the requested extension.

/s/ Stephen M. Hoffman
STEPHEN M. HOFFMAN
Assistant Attorney General

CERTIFICATE OF SERVICE

I do hereby certify that on September 20th, 2021, I electronically filed the foregoing pleading with the Clerk of the Court for the United States District Court, Western District of Texas, using the electronic case-filing system of the Court. The electronic case-filing system sent a “Notice of Electronic Filing” to the following attorneys of record, who consented in writing to accept this Notice as service of this document by electronic means:

Tivon Schardl & Tim Gumkowski
Federal Public Defender
Capital Habeas Unit
919 Congress Ave., Suite 950
Austin, TX 78701
Email: Tivon_Schardl@fd.org & tim_gumkowski@fd.org

&

Lee Kovarsky
Phillips Black Project
727 East Dean Keaton St.
Austin, TX 78705
Email: l.kovarsky@philipsblack.org

/s/ Stephen M. Hoffman
STEPHEN M. HOFFMAN
Assistant Attorney General